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PART III.

Legislative Measures and Rules thereunder.

REGULATION No. III OF 1906.

(PASSED ON THE 12TH DAY OF JULY 1906.)

A Regulation further to amend the Code of Civil Procedure as in force in Mysore.

Preamble.

Whereas it is expedient further to amend the Code of Civil Procedure, 1882, as in force in Mysore; His Highness the Maharaja is pleased to enact as follows :—

Substitution of new section for section 253 of the Civil Procedure Code.

1. For section 253 of the Code of Civil Procedure, 1882, as introduced by Regulation II of 1884, and amended by Regulations, II of 1887, VII of 1892, VI of 1901 and VI of 1904, the following shall be substituted, namely :—

Enforcement of liability of surety.

"253. Where any person has become liable as surety for the performance of any decree or for the restitution of any property taken in execution of a decree, or for the payment of any money, or for the fulfilment of any condition imposed on any person under an order of the Court in any suit or in any proceeding consequent thereon, or of any part thereof, the decree or order may be executed against him, to the extent to which he has rendered himself liable, in the manner herein provided for the execution of decrees :

Proviso.

Provided that such notice in writing as the Court may in each case think sufficient has been given to the surety."

Addition of new section after section 310.

2. The following section shall be inserted after section 310, namely :—

Application to set aside sale on deposit of judgment debt.

"310 A (1). Where immovable property has been sold under this Chapter in execution of a decree of any kind, including a decree in a suit for sale for the enforcement of a mortgage or charge, any person, either owning such property or holding an interest therein by virtue of a title acquired–

(a) where the property has been attached in execution of the decree, before such attachment, or

(b) where the property is sold in pursuance of a decree declaring its liability to sale in satisfaction of a mortgage or charge, before such decree,

may, at any time within thirty days from the date of the sale, apply to have the sale set aside on his depositing in Court–

(i) for payment to the purchaser, a sum equal to five per centum of the purchase money, and,

(ii) for payment to the decree-holder, a sum equal to the purchase money, together with the costs of the attachment and sale;

Provided that, if a person applies under section 311 to set aside the sale of his immovable property, he shall not, unless he withdraws his application, be entitled to make or prosecute an application under this section.

(2) Where immovable property has been sold under this Chapter by separate lots in execution of a decree, an application with regard to one or more of such lots may be made under this section.

(3) Any person making an application under this section shall be bound to implead the purchaser and the decree-holder as parties thereto; and, where the purchaser and the decree-holder are not so impleaded, the application shall be dismissed.

(4 Where any sale is set aside by an order made under this section, the property sold shall not be liable to be again attached in execution of the same decree unless such order is set aside in appeal or otherwise."

Amendment of section 315 of the Code.

3. In section 315 of the said Code, the figures and letter "310 A" shall be inserted after the word "section" and before the figures "312."

Addition of new section after section 582 of the Code.

4. After section 582 of the said Code, the following section shall be added, namely :—

Validation of certain memoranda of appeals or applications for review of judgment.

582 A. If a memorandum of appeal or application for a review of judgment has been presented within the proper period of limitation, but is written upon paper insufficiently stamped and the insufficiency of the stamp was caused by a mistake on the part of the appellant or applicant as to the amount of the requisite stamp, the memorandum of appeal or application shall have the same effect and be as valid as if it had been properly stamped: Provided that such appeal or application shall be rejected unless the appellant or applicant supplies the requisite stamp within a reasonable time after the discovery of the mistake, to be fixed by the Court."

V. P. MADHAVA RAO,
Dewan of Mysore.

Notification No. J. 225—Cts. 202-05-6, dated 25th July 1906.

The following alteration proposed by the Chief Court, in the rules relating to the custody of attached movables, published with Government Notification No. 4671—399, dated the 12th October 1899, is sanctioned :—

For Rule 8 of the said rules the following shall be substituted, namely :—

"If the property attached consists of cash, Government or other securities, jewels or other valuable articles of small bulk, the Nazir or Deputy Nazir may put the same together with a descriptive list in a box (other than the ordinary cash chest of the Court) under his lock and seal and send it for safe custody to the nearest Government Treasury In other cases, attached property brought to the Court shall be retained by the Nazir in the Court-house, if it can be conveniently stored or kept there."

By Order,
K. S. CHANDRASEKHARA AIYAR,
Secy. to Govt., Gen. & Rev. Depts.